



WESTMINSTER

September 13, 2006

U.S. Department of Energy,
Attention: Proposed Plan Comments
Rocky Flats Environmental Technology Site
12101 Airport Way, Unit A.
Broomfield, Colorado 80021-2583

City of Westminster
Department of
Public Works
and Utilities

RE: Rocky Flats Environmental Technology Site Proposed Plan,
Dated July 2006

4800 West 92nd Avenue
Westminster, Colorado
80031

303-430-2400
FAX 303-650-1643

Dear Mr. Lockhart:

The City of Westminster is providing comments to the *Rocky Flats Environmental Technology Site Proposed Plan*, dated July 2006 and the *Remedial Investigation/Corrective Measures Study-Feasibility Study Report (RI/FS)* for the Rocky Flats Environmental Technology Site (RFETS) dated June 2006. We understand the RI/FS has been approved by the Environmental Protection Agency (EPA) and the Colorado Department of Public Health and the Environment (CDPHE) without a public process, but we still have comments pertaining to this document. Westminster considers these documents to be the foundation for the Corrective Action Decision/Record of Decision (CAD/ROD) and the final Post-Rocky Flats Clean-up Agreement (RFCA).

The City of Westminster understands and is disappointed that this may be the last document we may formally comment on prior to the delisting of the Rocky Flats Site. We formally request that our comments in Attachment A be dispositioned specifically and individually and not generalized with other public comments. We also formally request an individual meeting with the RFCA Parties to address our comments prior to the release of the CAD/ROD.

It is very difficult to evaluate the Proposed Plan and the preferred alternative without knowing the technical and regulatory details of the post-RFCA. Previously, Westminster has been asked to evaluate RFCA Party proposals prior to their release to the public. Draft documents have always been released to us prior to public review. We do not understand the need for concealment of this critical document, nor do we understand the change in policy to keep downstream asset holders from participating in drafting language that protects our communities and fiscally preserves our assets. We reserve the right to re-address our comments and concerns identified in this letter once we have an opportunity to evaluate the language in the post-RFCA. It is essential that the post-RFCA document be released to the public for comment with a minimum of 60 days for review. Past practice for formal review of the RFCA documents



should justify a formal review of the final post-RFCA or any other post-closure document.

City staff has very thoughtfully and thoroughly reviewed these crucial documents and has both general and specific concerns associated with these documents. With remaining residual contamination on-site, Westminster wants to ensure the site will remain in a safe configuration to protect human health and the environment for the life of the remaining contaminants. Quotes or titles from the draft document, Rocky Flats documents, White Papers, regulatory citations, or EPA Guidance are italicized in this letter and attachment to distinguish sited language from Broomfield's and Westminster's comments and recommendations.

Westminster is concerned with the following general categories that are addressed in detail in Attachment A to this letter:

1. **Involvement with Downstream Asset Holders.** Municipalities impacted by surface water from the RFETS shall be part of the technical process to evaluate and develop monitoring specifications for the post closure monitoring and maintenance plan. DOE will hold quarterly data exchange meetings to review data, evaluate trending, analyze sampling needs and/or discuss corrective actions with impacted municipalities.
2. **Long-term Monitoring and Surveillance Plan.**
 - a. **Groundwater-**Stationary groundwater plumes require continued periodic monitoring to demonstrate that they are remaining stationary and do not pose a risk.
 - b. **Surface Water-***the RFCA states following completion of active remediation, the surface water must be of sufficient quality to support any surface water use classification.* With active remediation completed, we expect DOE to adhere to the underlying stream standards when the temporary modifications expire in 2009.
 - c. **Integrated Monitoring Plan Process.** This critical process must continue post-closure to periodically reassess site conditions and revise the on-site and off-site monitoring systems accordingly.
3. **Institutional and Access Controls/Proposed Central Operable Unit Boundary.** The document is silent on physical controls and Institutional Controls for the Points of Compliance. The RFCA parties committed to generate a final map of the site after the completion of the closure project to reflect the remaining residual contamination at the site. These two items need to be addressed. A fence around the Central OU should be an enforceable control not just a best-management practice.



4. **Original Landfill and Present Landfill.** Monitoring must continue until there is sufficient data to ensure both groundwater and surface water quality are not impacted from the Original Landfill and to confirm the integrity of the cover. Current seeps that have developed in the cover have the potential to release contaminants directly into Woman Creek. The Present Landfill is currently discharging contaminants in to No Name Gulch that exceed the surface water standards. The Present Landfill pond should not be in a pass-through mode if the water quality does not meet the surface water standards.
5. **991 Area.** This area is experiencing severe subsidence. We disagree with the RFCA Parties' position that this unstable area is not a CERCLA issue. The area has groundwater wells located in it to monitor groundwater plumes. The functional channel is experiencing uplifting and we are very concerned with the potential for mass loading of sediments into South Walnut Creek.
6. **Treatment Units/ Remedial Action Objectives.**
 - a. **Treatment Units.** We disagree with the statement in the Proposed Plan and the RI/FS stating: Continued operations of these four systems serves to protect surface water quality over short-and-long intermediate-term period by removing contaminant loading to surface water. This protection also serves to meet long-term goals for returning groundwater to its beneficial use of surface water protection. The Solar Pond Treatment Unit and the Present Landfill Treatment Unit as of today do not meet all of the surface water standards. The temporary standard expires in 2009 and we do not have assurances from DOE that the standard will be obtained to minimize the nutrient mass loading to Walnut Creek.
 - b. **Remedial Action Objectives.** The remedial action objectives are the foundation of the clean-up actions. We clearly understand if the objectives are not mechanism such as institutional controls to ensure protection of public health and the environment. The plan lacks the details of the implementation, oversight, enforceability, and reporting of the controls effectiveness and/or deficiencies.
7. **Administrative Record and Reading Room**
 - a. **Administrative Record.** The electronic version of the administrative record continues to have access problems. CERCLA, section 113 requires that an administrative record be established "at or near the facility at issue." The record is to be compiled contemporaneously and must be available to the public and include all information considered or relied on in selecting the remedy, including public



- comments on the proposed plan. We ask that all maps in the record be in color to be of value to our community.
- b. **Reading Room.** We request the Reading Room be maintained until we are assured the administrative record is accessible and functioning. Legacy Management has committed to work with us in the decision making process to determine the best location for the administrative record.
8. **De-listing the Site, Land Transfer, and Natural Resource Damage Evaluation**
- a. **De-listing.** The Proposed Plan lacks the details of the process to de-list and certify the site prior to transferring lands to the Department of the Interior.
 - b. **Land Transfer.** The Proposed Plan lacks the details of the land transfer. Our concern with the land transfer is the application of institutional and physical controls in both operable units.
9. **Public Involvement Plan.** The City and County of Broomfield and the City of Westminster were the only public members to comment on the Public Involvement Plan dated October 2006. We ask the document be revised to include the current notification process, communication process, and continuation of the quarterly data exchange meetings in addition to the LSO briefings.
10. **Post-Rocky Flats Clean-up Agreement and 5-year Review.** We expect language in the post-RFCA to maintain the current role DOE has with downstream communities. The post-RFCA should as a minimum include the details of the enforceability of the surface water standards, a continuation of the Water Working Group, Attachment 1 list of analytes, ICs, notification, public participation plan, and other key factors related to long-term stewardship.

Thank you for the opportunity to comment on this crucial document. We request that you disposition this document with us prior to the release of the final approved CAD/ROD. We provided comments to the Proposed Plan without clearly knowing the details of the final CAD/ROD. However, we wanted to provide you with our views of outstanding issues and a sense of what the City and County of Broomfield and the City of Westminster expects to have identified in a strong enforceable stewardship plan. The document is silent on several key issues such as the implementation and oversight of the regulatory requirements. There is not a clearly defined plan and procedure for institutional and physical controls. The record and data management system has to be in place and functioning prior to delisting. Language needs to be added to the plan as a commitment to downstream communities to provide a role for us post-closure



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regarding water management. We commit to team with you and the regulators to work through this closure process and well into the future. The City and County of Broomfield and the City of Westminster expect that we will continue to be involved, informed, and allowed to participate in any decision pertaining to long-term stewardship activities. If you have any questions, please feel free to call Shirley Garcia of my staff, at 303-438-6329.

Sincerely,

Jim Arndt, P.E.
Director Public Works and Utilities

Attachments

cc: JoAnn Price, City Councillor, City of Westminster
Brent McFall, Westminster City Manager
Ron Hellbusch, Special Projects Coordinator, City of Westminster
Lori Cox, City Council, City and County of Broomfield
Mike Bartleson, Deputy Director of Public Works, City and County of Broomfield
Kathy Schnoor, Superintendent Environmental Services, City and County of Broomfield
Shirley Garcia, Environmental Coordinator, City and County of Broomfield and City of Westminster
Shelley Stanley, City of Northglenn
David Allen, City of Northglenn
Lee Johnson, Woman Creek Reservoir Authority
Jeanette Alberg, Area Representative, Senator Wayne Allard
David Hiller, State Issues Counsel, Senator Ken Salazar
Doug Young, District Policy Director, Congressman Mark Udall
Carl Spreng, Colorado Department of Public Health and Environment
Mark Aguilar, Environmental Protection Agency
Ray Plinius, Legacy Management
Scott Surovchak, Legacy Management
Rocky Flats Stewardship Council



Attachment A

1. Involvement with Downstream Asset Holders

1.1 Community Involvement with Downstream Asset Holders

1.1.1 For years the City and County of Broomfield and the City of Westminster have had an integral role with the development of monitoring criteria during technical group discussions to implement changes to the monitoring plans at the site. Our role was clearly delineated in the RFCA and detailed in the *Integrated Water Management Plan for the Rocky Flats Environmental Technology Site*, dated August 1996. The Water Working Group's purpose as stated in the RFCA, Appendix 5, is *to develop consensus recommendations to the decision-makers regarding decisions and actions related to water quality at, or downstream of RFETS*. These discussions identified the needs and changes in monitoring scope as dictated by changes in the Rocky Flats Environment Technology Site operations and infrastructure. In addition the working group was tasked to work towards a long-term stewardship monitoring system that would continuously evaluate and support data quality objectives. Revise the Proposed Plan to include language that local municipalities impacted by surface water from the RFETS shall be part of the technical process to evaluate and develop monitoring specifications for the post-closure monitoring and maintenance plan and develop consensus recommendation to the decision-makers post-closure.

1.1.2 The Proposed Plan refers to the Long-term Surveillance and Maintenance Plan (LTSMP) as the document that identifies the long-term stewardship criteria. We were very disappointed when Legacy Management decided to not adhere to the Public Participation Plan that identified the Interim Long-term Surveillance and Maintenance Plan as a public document to be released for our review and evaluation. To this date we have not received justification from Legacy Management as to why they deviated from their document and the RFCA to include participation of the Water Working Group to *maintain and guide a long-term partnership between local governments, DOE, EPA, and CDPHE*. Revise the document to state the LTSMP will be reviewed annually with the current partnership between DOE, EPA, CDPHE, and downstream municipal water users.

~~1.1.3 The Plan is silent on the enforceability of the Points of Compliance at Indiana, the groundwater wells at Indiana, and the ability for the regulators to have an oversight role for the monitoring stations outside of the DOE retained lands. When lands are transferred from DOE to the Service will the regulators have the ability to enforce surface water quality and groundwater quality in areas outside of their responsibility that are located within the outer peripheral unit?~~

1.2 Quarterly Data Exchange Meetings

1.2.1 The City and County of Broomfield and Westminster for years have teamed with the RFCA Parties to exchange data, evaluate trending, and



develop data quality objectives. These crucial decisions and recommendation were developed within the framework of the Water Working Group. In addition, monitoring data generated by all involved parties were exchanged to evaluate the generated data and monitoring systems. It is very important to evaluate trends in data to determine the optimum locations for the monitoring system post-closure. The City and County of Broomfield will continue to generate surface water data post-closure and evaluate the impacts to Walnut Creek and Big Dry Creek. The City of Westminster and Northglenn will also continue to evaluate the impacts to Woman Creek and Big Dry Creek. Westminster reserves the right to monitor surface water post-closure at the site and at the site boundary.

- 1.2.2 We understand there may not be surface water discharges from the terminal ponds for several years, but quarterly monitoring will continue at the site and it will need to be reviewed and discussed. The Proposed Plan refers to the LTSMP. The LTSMP clearly excludes the continuation of the current process to discuss technical issues associated with the monitoring and surveillance systems at the site. Revise the Proposed Plan to specify quarterly data exchange meetings will be held with DOE, CDPHE, downstream municipalities, and EPA if they have an available representative, to review data, evaluate trending, analyze sampling needs, and/or discuss corrective actions. We expect the quarterly data exchange meetings to be in addition to any briefings by Legacy Management presents to the Local Stakeholder Organization.
- 1.2.3 We remind Legacy Management of their August 11, 2004 commitment made to downstream municipalities to continue the quarterly data exchange meetings with our communities for a minimum of 2 years. Based on this commitment, the language in the Plan should reflect as a minimum, the commitment to downstream municipalities.
- 1.2.4 On September 11, 2006, Mike Owen committed to open communication with local governments. This commitment is a confirmation by Legacy Management to continue the much needed quarterly data exchange meetings with downstream communities to continue to evaluate an integral monitoring plan.

1.3 Communication and Notification Process

- 1.3.1 Our short-term goals during the Quarterly Data Exchange meetings were to ensure a safe timely clean-up while working towards protecting surface water quality. Our long term goals were to have a detailed long-term stewardship plan to protect surface water quality that impacts us as downstream communities. The open communication process and the notification process also served to strengthen our ability to resolve issues. The document refers to the Public Involvement Plan and this involvement plan clearly does not maintain the current open communication and notification process. Rather than remaining silent on direct communication and notification with our communities, we ask the document be revised to incorporate the previous notification and



communication process as identified in our letter to Audrey Berry, dated September 16, 2005.

1.3.2 The current communication process with downstream communities should not be intended to replace the public process with the Rocky Flats Stewardship Council (RFSC), but instead be in addition to the public involvement plan identified by Legacy Management.

1.3.3 The City and County of Broomfield and the City of Westminster have had several meetings with the RFCA Parties to address the importance of maintaining the same communication process and notification process with our municipalities. We have drafted several letters addressing the specifics of long-term stewardship and our role to fulfill our responsibilities to our citizens and businesses. Please refer to our most recent letters to Mike Owen dated December 6, 2005, letter to Audrey Berry dated September 16, 2005, and letter to John Rampe dated January 2004. In addition, we have been the only two communities that have individually commented on all the documents the RFCA Parties have released during the clean-up project. We have invested hundreds of hours evaluating remedy proposals and strived to bring forward resolutions to meet both our needs and DOE's needs. These letters reflect the importance of this project to our communities. Revise the Proposed Plan to reflect our role post-closure to ensure our future role is codified in Legacy Management post-closure documents.

2. Long-term Monitoring and Surveillance Plan and Integrated Monitoring Plan Process

2.1 Groundwater-

2.1.1 Broomfield understands the specific groundwater plumes that were evaluated in the approved RI/FS and the basis for the potential pathway analysis for contaminants to impact human health and the environment. The items evaluated were:

- *Five upper hydrostratigraphic unit groundwater areas where contaminated groundwater may impact surface water;*
- *Upper hydrostratigraphic unit groundwater sampling locations where groundwater contamination exceeds maximum contaminant levels; and*
- *Groundwater sampling locations where exceedances of volatilization PRGs in groundwater indicate a potential indoor air risk*

What the document is lacking is the process to evaluate stationary groundwater plumes and their potential risk long into the future in the event they migrate or a new pathway is created. We understand the stationary plumes do not pose a risk based on current data, yet the RI/FS and the Proposed Plan do not take consider the need to continue monitoring stationary plumes post-closure in the event hydrological conditions change. The RI/FS states these plumes *do not require further studies to evaluate risk to human health and the environment* and we agree with this statement based on current data. Revise the document to



state in the event stationary plumes begin to migrate, a risk evaluation will be performed for the contaminant or contaminants of concern. Revise the document to also include the process to evaluate the risk. Include impacted communities in the process to determine the monitoring needs post-closure.

- 2.1.2 Revise the documents to reflect language in the RFCA Attachment 5, C, 2 stating:

Groundwater plumes that can be shown to be stationary and do not therefore present a risk to surface water, regardless of their contaminant levels, will not require remediation or management. They will require continued monitoring to demonstrate that they remain stationary.

Based on the changes to the topography and potential hydrology at the site, Broomfield and Westminster believes there needs to be sufficient monitoring to determine if the groundwater plumes remain stationary and do not pose a risk. The RI/FS does not address future evaluations for all identified groundwater plumes. The process outlined within the RI/FS does not evaluate impacts to the creeks holistically.

- 2.1.3 Revise the document to state all exceedances of groundwater action levels shall be reported to downstream communities once DOE becomes aware of the data. In addition, the data shall be reported quarterly and summarized annually to all parties, including downstream municipalities. Revise the document to add "downstream communities" to the notification and communication process identified in the Plan.
- 2.1.4 *All groundwater plumes that exceed action levels must continue to be monitored until the need for institutional controls is mitigated.* Revise the document to include the process on implementation of institutional controls. Define how institutional controls will be implemented, how they will be evaluated, how often they will be evaluated, and by whom. Any information associated with institutional controls should also be relayed to the public and downstream communities. Once again without ICs in the outer peripheral unit we are not clear on the regulatory process in this area.
- 2.1.5 Any revisions or justifications to change the standard/action levels for groundwater shall be based on the surface water use classifications and not jeopardize surface water quality. Impacted municipalities should be part of the decision making process to reevaluate any proposed changes. Per RFCA the temporary modifications were developed together with other stakeholders (i.e., the local municipalities that are impacted by surface water from the RFETS). Without knowing the specific language in the post-closure document, we ask language be incorporated and codified in Proposed Plan to ensure municipalities are included with any decision made at the Rocky Flats site that may impact surface water. Any modification or changes to the stream standards shall include downstream municipalities.
- 2.1.6 Broomfield and Westminster are concerned the Proposed Plan does not address any institutional controls to prevent siting groundwater wells in the refuge to be used for irrigation or for other uses. The Proposed Plan



states: *the construction or operation of groundwater wells is prohibited; except for remedy related purposes.* Revise the document to clarify the process to site a groundwater well in the refuge in the event a well is needed to evaluate the potential migration of a groundwater plume.

- 2.1.7 Figure 3 of the Propose Plan identifies the Rocky Flats Operable Units, i.e., the DOE-retained lands and the refuge area. Figure 2 of the Proposed Plan identifies the groundwater and surface water monitoring locations. Revise the document to include an overlaid map of the 2 above mentioned maps to reflect the location of the monitoring stations in relation to the boundary.
- 2.1.8 We are very concerned the document does not address if or how institutional controls would apply to boundary wells. Revise the document to state ICs will apply to the boundary wells. Revise Figure 3 to include a delineation of the groundwater boundary wells. The Plan should also include a statement that the land/area the wells are located in will be retained by DOE.
- 2.1.9 Revise the document to state how the groundwater wells will be secured and identified. We expect to have a fence around the perimeter of the groundwater wells that are located outside of the DOE-retained lands. These wells have to be clearly marked and labeled to prevent public access and intrusion. As a minimum, a fence should be placed 10 feet out from the monitoring well. In addition, the fence should be legally control fence.
- 2.1.10 Telemetry is not a sufficient tool to be used as an indicator that a well has been vandalized. Freezing conditions could impact the telemetry system. The telemetry could serve as a layering method to protect the groundwater wells in the event other controls fail to protect the monitoring systems.
- 2.1.11 The fence for the boundary wells should be identified as a legal control to protect the monitoring system for the remedy. Layering is of utmost importance in the event one control fails. The need to protect these wells is founded on the importance to gather groundwater data to evaluate the remedy.
- 2.1.12 The document refers to the Long-term Surveillance and Monitoring Plan. Revise the document to state all groundwater monitoring data and any changes in hydrologic conditions will be reported quarterly and summarized annually to all parties and impacted municipalities. Any exceedances of groundwater action levels will be reported to all parties and impacted municipalities concurrently. Once changes or physical conditions exist that could impact surface water quality, downstream municipalities should be notified via telephone or fax.
- 2.1.13 The RI/FS does not address the evaluation of groundwater that discharges directly to surface water as baseflow, specifically groundwater entering North Walnut Creek from the discharge gallery. The document is silent on direct impacts to the creeks and only addresses an evaluation of groundwater to surface water at the Points-of-Compliance. To measure impacts after dilution occurs at the Points-of-Compliance (POCs) may not be an accurate evaluation of direct impacts



to the streams and human health and the environment. We understand the remedial action objectives are used to develop and evaluate remedial alternatives. However, we do not agree it is appropriate to use the creeks and ponds as a method to dilute/treat surface water. It may appear inaccurate to measure the effectiveness of the treatment units if the risks are evaluated at the terminal ponds and the POCs rather than measuring the water quality as it enters the creek or ponds.

2.2 *Surface Water-*

- 2.2.1 Temporary modifications were developed together with local municipalities that are impacted by surface water from the RFETS. Broomfield reminds DOE that RFCA states *following completion of active remediation, the surface water must be of sufficient quality to support any surface water use classification in both Segments 4a/4b and 5*. Revise the Proposed Plan to state any temporary modifications will revert to the stream standards once the final remedy has been completed. We expect DOE to adhere to the stream standards once the temporary standards expire in 2009. Our intent was to allow less stringent standards during the clean-up. DOE should be adhering to the stream standards now that the remedy has been completed. Revise the Proposed Plan to include language identifying the procedure and schedule DOE has in place to adhere to the surface water standards by 2009.
- 2.2.2 Revise the document to state how the institutional controls will apply to the surface water monitoring stations inside and outside of the DOE retained lands.
- 2.2.3 Revise Figure 3 to include a delineation of the surface water monitoring stations. The Plan should also include a statement that the land/area the surface water stations are located in will be retained by DOE.
- 2.2.4 Define how the institutional controls will be implemented for the use of surface water, how they will be evaluated, how often they will be evaluated, and by whom. Any information associated with institutional controls should also be relayed to the public and downstream communities. We are specifically interested in the application of ICs at the POCs at the boundary.
- 2.2.5 Broomfield is concerned the Proposed Plan does not address any institutional controls to prevent the use of surface water for drinking or irrigation in the refuge area. The Proposed Plan states: *surface water above the terminal ponds may not be used for drinking water or agricultural purposes*. Surface water is discharged into Walnut Creek and Woman Creek from the DOE retained land and eventually flows downstream to the POCs. It does not seem logical to enforce ICs in an area with no public access yet have no ICs where the public will have access to the drainages and monitoring stations outside of the DOE retained lands. The drainages and creeks could be an inviting water hole for horses when the refuge allows horseback riding on the south side of the site. We understand there will be designated trails for the horses, but there needs to be a legal control to prohibit the use of surface water flowing to the POCs. We strongly support the refuge and its future



activities, but we have reservations about the lack of application of the identified controls in the Proposed Plan. Revise the document to state the surface water monitoring stations outside of the DOE-retained lands will be managed consistently with the surface water monitoring stations within the DOE-retained lands.

- 2.2.6 Revise the document to identify how the institutional controls will be enforced and the schedule to implement corrective actions in the event a control fails.
- 2.2.7 Revise the document to state a legally mandated fence will be constructed around the perimeter of the surface water monitoring stations outside of the DOE-retained lands. These surface water monitoring stations should be clearly marked and labeled to prevent public access and intrusion. As a minimum, a fence should be placed 10 feet out from the monitoring stations.
- 2.2.8 The fence for the surface water monitoring stations outside of the DOE-retained lands and the fence around the DOE retained lands should be identified as a legal control in the Proposed Plan to protect the monitoring system for the remedy. Layering is of utmost importance in the event one control fails. The need to protect these surface water monitoring stations is founded on the importance to gather surface water data to evaluate the remedy and protect surface water quality downstream of Rocky Flats.
- 2.2.9 The document refers to the Long-term Surveillance and Monitoring Plan. Revise the document to state all surface water monitoring data will be reported quarterly and summarized annually to all parties and impacted municipalities. Any changes in concentrations or exceedances of surface water action levels and/or standards should be relayed concurrently to impacted municipalities and the regulators. Once changes or physical conditions exist that could impact surface water quality DOE should notify downstream municipalities concurrently with the regulators.
- 2.2.10 The Long-term Surveillance and Monitoring Plan is referred to in the Proposed Plan as the document that identifies the monitoring and surveillance post-closure. As written in the LTS&M Plan, surface water quality in the terminal ponds will be measured only when there is a pond discharge. As identified in the LTS&M Plan the ponds will be discharged when they are at 40% capacity. Based on modeling to predict the amount of surface water flowing at the site post-closure, there will be far less water entering the ponds. With the new configuration of the site, it could be years before the ponds would require a discharge. To effectively evaluate the remedy, the water quality in the terminal ponds or an identified location at the site should be performed annually as a minimum. Revise the document to state as a minimum the terminal ponds on Walnut Creek will be sampling annually for analytes identified in Attachment 5 of RFCA. Woman Creek is unique in that not all the runoff of surface water is captured in C-2, therefore language should be added to the Plan for Legacy Management to work with Westminster and the Woman Creek Reservoir Authority to identify a location that



accurately reflects the effectiveness of the remedy on the south side of the site.

- 2.2.11 The City and County of Broomfield and the City of Westminster understands the potential for the ponds to require additional discharges during wet seasons and wet years. Revise the Proposed Plan to include the following language:

The Surface Water and Groundwater Working Group will be tasked to develop an Integrated Water Management Plan to develop a consensus recommendation to the decision-makers regarding decisions and actions related to water quality at, or downstream of RFETS. The group will identify necessary actions necessary to protect water quality and the watershed and recommend programmatic activities to effectively manage water resources. The group will provide a comprehensive management tool to identify the actions to take regarding pond management. This tool will maintain and guide a long-term partnership between local governments, DOE, EPA, and CDPHE. The goal of the group will be to provide a comprehensive management tool to implement DOE's long-term commitment for protecting water and related ecological resources.

It is imperative to include this language within the body of the Proposed Plan and the CAD/ROD to ensure a comprehensive water management plan is developed based on diminished flows, protection of ecological resources, and application of institutional controls necessary to protect water for all uses.

- 2.2.12 Revise the document to include language the City and County of Broomfield will sample surface water quality during a discharge into Walnut Creek and we reserve the right to sample surface water quality on an annual basis to determine surface water quality within the terminal ponds on Walnut Creek.
- 2.2.13 Revise the document to include language the City of Westminster and/or the Woman Creek Authority reserves the right to sample surface water quality on an annual basis to determine surface water quality within the C-2 terminal pond or specified location on Woman Creek.
- 2.2.14 Broomfield and Westminster have stated the need for a comprehensive long-stewardship plan since October 4, 1996. We are very disappointed that through-out the clean-up process the details of the long-term stewardship plan were deferred to numerous unwritten documents. We believed the Proposed Plan would be the critical document that would include the details and implementation of a long-term stewardship plan. The plan as a minimum was to identify the implementation and enforceability of institutional controls, have a clearly defined monitoring and surveillance plan that was developed with downstream municipalities input, include a statement identifying our role post-closure, and include a risk assessment based on effective engineered



controls that were evaluated at the point effluent enters waters of the state.

- 2.2.15 We are also very disappointed that at the Public Hearing held on August 31, 2006 we were informed we could not address long-term stewardship issues. The statement in itself was in contradiction to the Proposed Plan that offered institutional and physical controls as 2 of the 3 identified alternatives. Without knowing the specifics of the final controls associated with the alternatives, we have reservations about the long-term effectiveness and enforceability of a long-term stewardship plan. If our comments are not considered, we may have to support alternative 3 rather than alternative 2 once the final CAD/ROD is released.
- 2.2.16 The effectiveness of a long-term stewardship plan that protects surface water quality can only be strengthened through open communication among all affected parties. We have not been asked to participate in the drafting of the post-closure document to ensure an effective plan is drafted before it is finalized. Our participation would only serve to strengthen the success of a stewardship plan that our communities will accept and support.
- 2.2.17 If the regulators do not have enforceability responsibilities in the refuge area to ensure surface water quality, the City and County of Broomfield, City and Westminster, City of Northglenn, and the Woman Creek Reservoir Authority may seek to have the POCs, groundwater wells, and drainage measuring stations placed at the boundary between the DOE retained lands and the refuge.
- 2.3 *Air-*
- 2.3.1 Broomfield and Westminster agree with the risk assessment for air contamination. Revise Figure 2 to include the location of the 3 current air monitoring stations.
- 2.3.2 We understand the application of air modeling can be utilized in place of actual air monitoring. We ask to be apprised of DOE actions pertaining to the air stations. Communication with Legacy Management is vital if our staff and Council representative's are expected to effectively convey our assurances of the monitoring program to our citizens.
- 2.3.3 Any changes to the air monitoring criteria shall be made via the IMP process with input from our communities.

2.4 *Ecological-*

- 2.4.1 We appreciate the efforts the RFCA Parties made to evaluate the ecological risks in the RI/FS. The evaluation was very comprehensive.
- 2.4.2 The *Rocky Flats, Colorado, Site Vegetation Management Plan*, dated May 2006 was revised without our review or knowledge. The recent changes to the Vegetation Management Plan should have been discussed during the IMP ecological meetings. The City and County of Broomfield and Westminster are very concerned we continually express our desires and justifications to maintain the current IMP process, communication process, and notification process.



- 2.4.2.1 Previous protocols with DOE and our governments were for DOE to notify us when chemicals were applied at the site for target pest control. This information is very valuable to us. The site had several applications this year and we were not notified until well after the application at a Quarterly Data Exchange meeting. Please ensure the Proposed Plan has language to include us with any revisions to the Site Vegetation Plan. This Vegetation Plan should be evaluated annually and we expect to be part of the evaluation process.
 - 2.4.2.2 The vegetation management plan is not clear if the plan is specific to the DOE-retained lands. This issue is crucial to the long-term stewardship application at the site.
 - 2.4.2.3 The Vegetation Plan identifies prescribed burns and notes they have been on hold until the USFWS develops and implants their management plans for the refuge. Any prescribed burn will require extensive public input and we ask to be informed if and when DOE begins to develop a plan for prescribed burns. We are concerned with the statement in the Vegetation Plan stating: *Currently, grazing is not permitted at the Site and prescribed burns have been suspended until USFWS takes over management of the Rocky Flats National Wildlife Refuge.* Clarify if this means prescribed burns will occur across the entire site. Will grazing be allowed within the DOE retained lands? If so, this raises concerns with erosion problems within the DOE retained lands. We ask these questions because they may have long-term stewardship implications. When the CCP was drafted the City and County of Broomfield and the City of Westminster clearly understood there was delineation between the roles of DOE and the Service. Recent documents are vague as to what document falls under the jurisdiction of DOE or the Service. The Plan does not address how the lands will be managed, nor do they address how controls will be enforced and by whom.
 - 2.4.3 The Preble's Meadow Jumping Mouse (PMJM) is a listed threatened species under the Endangered Species Act. The Vegetation Plan identifies controls to allow up to 3 acres of weed control within current PMJM areas within Rock Creek Reserve on an annual basis. Clarify how and if other controls for other areas at the site that are PMJM areas will be identified and managed.
 - 2.4.4 In the event the Solar Pond Treatment Unit has to be relocated to PMJM habitat, we ask to be involved in the evaluation process based on the impacts to Walnut Creek and Big Dry Creek.
 - 2.4.5 As the mouse controversy continues, we ask to be apprised on any potential impacts to the site. We also request that when a final decision is made pertaining to the mouse, the Water Working Group meet to evaluate the water and ecological impacts prior to revising the Site Vegetation Plan and the ecological section of the IMP.
- 2.5 *Integrate Monitoring Plan Process and Water Working Group-*



- 2.5.1 To assess the direction and magnitude of contaminant movement and groundwater migration, it is essential to evaluate data as generated to compare it against predetermined outcomes and identify whether reported concentrations are routine or indicative of worsening conditions. When our communities were first impacted by contamination leaving the site boundary, we were compelled to initiate a Water Working Group to develop a common vision with DOE to protect water quality. As the process evolved there was a need to evaluate revisions to the site-wide water management plan and ecological impacts on an annual basis. The Integrated Monitoring Plan (IMP) served to:
- Develop data quality objectives with a goal to ensure compliance for surface water,
 - Developed objectives and monitored pond discharges,
 - Developed objectives and monitored discharges for the terminal detention pond discharges,
 - Developed objectives and monitored off-site discharges for community water supply management,
 - Developed objectives and monitored groundwater interactions,
 - Developed objectives and monitored special project activities such as D&D of buildings including close-in air monitoring and placement of groundwater wells to track migration or impacts of groundwater plumes near the buildings,
 - Developed objectives and monitored discharges from treatment units,
 - Developed objectives and monitored the Present Landfill and Original Landfill,
 - Developed objectives and monitored air,
 - Developed ecological objectives and monitored flora and fauna, and
 - Reviewed National Permit Discharge Elimination System (NPDES) proposed revisions.
- 2.5.2 It is imperative to maintain the IMP process to reassess site conditions and revise the monitoring systems to integrate on-site monitoring and off-site monitoring with downstream municipalities. Revise the language in the Proposed Plan to ensure the process continues post-closure. These meetings are highly technical and it is imperative to allow for discussion and exchange of data among those that generate data. Our goal is to evaluate the remedy. The data will verify if the remedy, which includes treatment, covers, caps, and removal reduces toxicity and mobility post-closure.
- 2.5.3 The Proposed Plan is silent on continuation of the IMP process and we are very concerned Legacy Management does not intend to continue this process with downstream municipalities. With the recent revision to the Vegetation Management Plan of May 2006 and associated review of the IMP ecological section, DOE's actions potentially reflect their intent to preclude us from a process that for years served to build trust and confidence with our local communities and the regulatory agencies. At



the Public Hearing held on August 31, 2006 DOE stated our comments to the Proposed Plan would not be disposition with us prior to the release of the final CAD/ROD. This statement leaves us very concerned. Our previous communication process has been negated by this statement and does not give us the ability to discuss our concerns. We are left to rely on language in a post-closure document that we have not had an opportunity to comment on.

- 2.5.4 We ask the RFCA Parties to work with us to ensure we continue the IMP process. To date we have been willing to accommodate DOE's needs to concentrate on closure activities. We offer to host the meetings. We can have informal meetings to discuss data and exchange information, and we will try to meet the schedule of Legacy Management. Our justifications were conveyed to Legacy Management in 2004 and we only ask Legacy Management to adhere to their commitment made in 2004 to the City and County of Broomfield and to the City of Westminster. We ask that you work with our technical staff member to resolve this issue prior to the release of the final CAD/ROD.
- 2.5.5 To minimize the need for several meetings post-closure, the City and County of Broomfield and Westminster recommended to Water Working Group and the Quarterly Data Exchange meetings be combined. During these meetings the monitoring plans could also be evaluated on an annual basis. We ask that you respond to our request.

3. Institutional and Access Controls/ Proposed Central Operable Unit Boundary

3.1 Institutional Controls and Access Controls-

- 3.1.1 The document states: *Because the parties had anticipated using institutional controls consistent with the anticipated future use of the site, CDPHE determined that a post-remediation analysis of residual risk on a release site basis was not necessary.* The document does not state how and if institutional controls will apply at the point-of-compliance monitoring stations, boundary groundwater wells, or other monitoring stations outside of the proposed boundary. Please refer to our previous comment in section 2 related to implementation of institutional controls. Revise the document to state the justification for not performing the post-remediation analysis. With the 903 Americium, is the analysis solely performed for dose or was inhalation considered for visitors, including children?
- 3.1.2 The RFCA Parties committed to generate a final map of the site after the completion of the closure project to reflect the remaining residual contamination. This map was to assist the general public with a visual map of where residual contamination remained and where ICs would be applied. The RI/FS has several maps with considerable information, but this is not what the governments have been requesting. Revise the document to include an overlaid map identifying all the residual radioactive contamination in the soils, the remaining foundations, slabs, tanks, etc. and the groundwater contaminant plumes. This map should also include all the monitoring systems associated with the remedy.



Institutional controls and access controls should apply to any area with residual contamination that needs to be protected from the public or contains a monitoring system to evaluate the remedy.

- 3.1.3 The document is silent on physical controls and Institutional Controls for the Points-of-Compliance (POCs). It is ironic that the only two enforceable surface water monitoring stations will not be secured and protected from the general public. Revise the document to include language that fencing as an enforceable control will secure the POCs. In the event the POCs have to be relocated, the RFCA Parties will work with the impacted communities during the relocation process.
- 3.1.4 Revise the boundary map, Figure 3, to include stamped areas retained by DOE for the Points-of-Compliance.
- 3.1.5 Revise the boundary map, Figure 3, to include stamped areas retained by DOE for the groundwater wells at the site boundary.
- 3.1.6 Revised the boundary map, Figure 3, to include stamped areas retained by DOE for surface water stations located outside of the DOE retained lands.
- 3.1.7 We understand the language in the post-closure document will have boundary signs mandated as a legal control. We do not understand the issue the RFCA Parties have with mandating the fence as a legal control.

3.2 *Proposed Central Operable Unit Boundary-*

- 3.2.1 The plan provides a map, Figure 3, delineating the Operable Unit (OU) boundaries. The RFCA Parties have decided to reconfigure the OU boundaries to consolidate all areas of the site that may require additional remedial actions into a final reconfigured Central OU. *The boundary of the new Central OU, also considers practicalities of future land management.* Broomfield understands the need Legacy Management (LM) has to establish a footprint that is as small a possible to reduce management cost and liability. We believe remedy evaluation and remedy protection have far greater justification to determine a boundary than the land management practicalities that were provided as justification for the proposed boundary.
- 3.2.2 Broomfield and the City of Westminster do not agree with the proposed boundary for the south side of the Original Landfill. There appears to be two choices for the south boundary. The proposed boundary is to site the boundary to the north of Woman Creek directly south of the Original landfill. Further east of the Original Landfill site, the boundary moves south of the creek. The rationale provided to us by the RFCA Parties for determining the boundary was to make it more practical for the Fish and Wildlife Service so that they would not have to access DOE retained land in this area and then exit the boundary to continue with land management operations outside of the DOE boundary. We were then provided another justification based on the need to protect the wetland area directly south of the Original Landfill. Based on a tour taken in July, we are in agreement with the placement of the boundary directly south of the Original Landfill. We however, do have concerns for the justification to exclude from the DOE retained lands the upgradient surface water



monitoring station and the immediate downgradient surface monitoring station associated with the Original Landfill. We disagree with DOE that the 2 crucial surface water stations should be located outside of the DOE retained lands. There is no justification to exclude these water stations from DOE retained lands. Revise Figure 3 to expand the DOE retained lands to include GS-05 and GS-59. These stations are not located in steep areas, nor are they in riparian areas. The other alternative is to manage all the surface water stations consistently at the site and apply institutional and physical controls to these 2 stations associated with the Original Landfill. They would have to have additional layers of protection just as the POCs and the boundary wells at Indiana Street. All monitoring stations and wells should be maintained, operated, and funded by DOE.

- 3.2.3 Groundwater from the Original Landfill is designed to flow underneath the buttress and migrate directly into Woman Creek. The Proposed Plan does not address the process to site groundwater wells or surface water monitoring stations within the refuge if warranted based on technical recommendations. Revise the Proposed Plan to address the process to potentially locate future monitoring systems outside of the DOE retained lands.
- 3.2.4 These monitoring stations located outside of the DOE-retained lands provide crucial data. This data allows a proactive approach to identify a potential issue close to the source rather than a reactive approach that could impact water quality in the creeks or ponds. We can not emphasize enough that the creek and the ponds should never serve as a treatment method or serve as a unit to dilute contaminants prior to discharge into waters of the United States.
- 3.2.5 To assist with a final determination of the southern boundary, we prefer that one of our previous consultants or technical staff assist with identifying the final boundary on the south side of the site associated with Woman Creek.
- 3.2.6 Based on proposed activities identified in the Comprehensive Conservation Plan (CCP) drafted by the Fish and Wildlife Service the southern portion of the refuge will have much more activities than the north side. We have additional concerns activities such as hunting, horseback riding, and other off-trail activities could jeopardize the integrity of the monitoring stations near the Original Landfill.
- 3.2.7 Just as the Prebles Meadow Jumping Mouse has a 300-foot-protection area, we believe the remedy should also have an identified minimum protective area to protect the monitoring systems and the remedy from the public.
- 3.2.8 Revise the map, Figure 3, to move the boundary north of the Present landfill at least 300 feet from landfill boundary. It may be practical to follow the road north of the landfill, but the area northeast of the landfill should be pushed further north to protect the cap based on the proximity to the road and the cap.

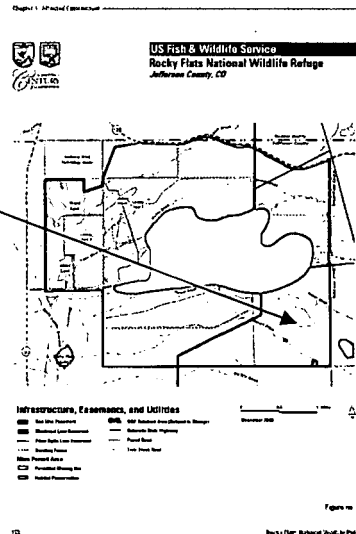


- 3.2.9 We would like to emphasize our concern is not the risk associated with the landfills, but rather the potential of public damage to the remedies and the monitoring stations that evaluate the remedy.
- 3.3 It is germane to identify the above mentioned POCs, surface water monitoring stations, and boundary wells on the map, Figure 3. Language for implementation of ICs and access controls shall be included in the Proposed Plan. We ask to participate with the development of the controls prior to the release of the final CAD/ROD. If sufficient controls are in place, we support Alternative 2. If clear controls are not defined, implemented, or enforced, we would therefore support Alternative 3.
- 3.4 A fence around the Central OU should be more than a best-management practice. Revise the document to state the fence will be an enforceable control associated with the remedy and placed around the DOE-retained lands and monitoring systems outside of the DOE retained lands. In addition, the fence should be legally enforceable for these stations. This language in the CAD/ROD should support the enforceability of the fence in the post-Rocky Flats document as a regulatory mandated physical control. We expect the fence to be a legal control that is enforceable and will have identified maintenance and surveillance schedules. Corrective actions pertaining to the physical condition of the fences should also be identified in a Standard Operating Procedure for inspections of the site boundary and include signage.
- 3.5 Broomfield is concerned the proposed boundary does not include the 903 Americium Area. To state: *These levels of radioactivity are also far below the 231 pCi/g activity level for an adult rural resident that equates to the 25 mrem/year dose criterion specified in the Colorado Standard for Protection Against Radiation* may be simplifying the risk based on dose. The issue with this area is to prevent digging to prevent dust dispersion and to control erosion to protect surface water quality. Not including this area within the Central OU (DOE retained lands) will have no associated ICs with this area. It would be irresponsible to allow digging or installation of groundwater wells for irrigation or other domestic use in this area. Activities in this area should not be allowed, especially horseback riding, trails, or any activity that could generate additional dust or increase the potential for erosion.
- 3.6 Based on the Independent Verification and Validation review by ORISE in the 903 pad and Inner Lip Area, there were additional hot spots that were identified in the 903 pad and Inner Lip area. We therefore question the potential for hot spots in the Americium Area. Revise the map to include the Americium Area in the DOE retained lands.
- 3.7 We would also be concerned if grazing were allowed in the Americium Area. Erosion would increase in this area and there would be a potential to impact Woman Creek. The run-off in this area would not be captured



in C-2 and could potentially leave the site without being monitored. Clarify the basis for figure 3 in the Proposed Plan (Attachment 1) versus the proposed boundary in the Comprehensive Conservation Plan as identified below.

Area that was removed from new map.



4. Original Landfill/Present Landfill

4.1 Original Landfill –

4.1.1 There are also two outcrops directly south of the creek that may one day need to be evaluated for surface water quality. Until we have sufficient data to ensure both groundwater and surface water quality are not impacted from the Original Landfill, we need the ability to monitor in Woman Creek or directly south of Woman Creek if warranted. ICs would only apply to the DOE retained lands and the ability to add additional monitoring stations in the refuge could be very difficult if the refuge does not manage any lands associated with ICs. It is premature to assume there is sufficient data to evaluate the remedy for the Original Landfill. Revise the Proposed Plan to include language to allow for adding to the monitoring system outside of DOE retained lands if warranted by an evaluation of the RFCA Parties and the Water Working Group.

4.1.2 With current data, we do not question the risk of the Original Landfill to human health and the environment. We do question the integrity of the cover on the landfill and the ability to keep the buried waste segregated from groundwater infiltration and infiltration from precipitation. Our concern is with the current seeps on the cover that now have a higher potential to release contaminants directly into Woman Creek that previously were not mobile or at the surface to flow directly into Woman Creek.

4.1.3 Per the document, the cover is effective and protective based on the identified pathways that were evaluated. With the current seeps we now have a pathway that was not evaluated. We question the integrity of the cover and the numerous seeps that have developed since the placement of the cover. See Attachment 2.



- 4.1.4 The water in Attachment 2 could have been sampled to provide additional data to document the quality of the groundwater surfacing as a seep. Westminster, the City and County of Broomfield, and our Professional Consultants voiced their concerns with the placement of a shallow cover to prevent groundwater passing through the waste and surfacing at the cover. There was nothing in the landfill closure document to prevent the groundwater from passing through the waste and into Woman Creek. We voiced our concern with groundwater being allowed to directly enter Woman Creek without being monitored. Now the remedy has exacerbated the situation by causing the groundwater to seep to the top of the cover and potentially have a new pathway that was not evaluated.
- 4.1.5 We are very concerned the Original Landfill IM/IRA states monitoring of the Original Landfill will consist of quarterly monitoring until the first CERCLA review. We understand the next 5-year review will be in spring of 2007 and with the current status of the integrity of the cover, DOE would not show due diligence if they did not continue to monitor quarterly until the next review in 2012. We ask this because there would be sufficient data to evaluate remedy and the changes to hydrology in this area.
- 4.1.6 The City of Westminster also reserves the right to ask for periodic sampling of the South Interceptor Ditch if warranted.
- 4.1.7 We agree with the list of analytes to be evaluated at the Original Landfill are the full set of analytes identified in Attachment 5, table 1. We understand sampling as recent as February 2006 triggered monthly sampling per the decision rule. Arsenic and thallium were above the RFCA standard. The City of Westminster expects to be kept apprised of the results of the monthly sampling. This is once again justification for the need of a Water Working Group to implement a strategic water management plan for the site.
- 4.1.8 We question the success of the restoration effort on the cover and areas still do not have established growth. We are very concerned without a successful restoration effort; Woman Creek will be vulnerable to mass loading of sediment. (Attachment 3)
- 4.2 *Present Landfill-*
- 4.2.1 We agree based on the current data, there is minimal risk at the Present Landfill. The risk assessment was based on previous data. With the new sampling and monitoring plan, Attachment 5 of the current RFCA list the analytes to be monitored at the treatment unit. It was not until this sampling plan was revised that the effluent was sampled for a full suite of analytes. The last analytes identified above the stream standards were boron and manganese. The RFCA standard for boron is 750 $\mu\text{g/L}$ and the result was 1,930 $\mu\text{g/L}$. Manganese standard was 1,858 $\mu\text{g/L}$ and the result was 5,650 $\mu\text{g/L}$. Monthly sampling was initiated for these 2 analytes. The sampling events were triggered and the quarterly monitoring was increased to monthly sampling for 3 consecutive months.



We are very concerned water is allowed to discharge from the Present Landfill Pond into No Name Gulch knowing the effluent exceeds surface water standards. How can DOE be allowed to discharge water that exceeds the surface water standard and have the approval of the regulators? Once again, we understand the risk is minimal, but the standards are regulatory mandated and we do not understand the application of the discharge versus the stringent standard our waste water facilities have to adhere to prior to discharge.

- 4.2.2 We are very concerned with the language in the Present Landfill IM/IRA that states the pond will be sampled based on a "decision rule. We have no role in the decision, yet the City and County of Broomfield may be directly impacted.
- 4.2.3 The objective of the treatment system at the Present Landfill is to *demonstrate compliance with surface water standards*. The risk assessment evaluated risk, yet there seems to be a diminishing of the need to demonstrate compliance with RCRA regulated unit. Revise the document to provide justification for allowing a release of surface water without demonstrating compliance.
- 4.2.4 We do not agree with measuring compliance with the Present Landfill at the POC at Indiana. The POC for the Present Landfill should be at the outfall of the treatment unit before it is released to waters of the state.
- 4.2.5 There appears to be subsidence on the north east face of the cap on the steep slope north of the treatment unit/pond. The Proposed Plan states the remedy is functioning per design. The document does not address the subsidence. We are concerned about slippage of the hillside in this area and it was addressing in our Present landfill comments in the IM/IRA. Please respond as to how this issue will be addressed.
- 4.2.6 We observed a discoloration of the water in the treatment unit during our tour on August 21st. Please clarify the reason for the discoloration in the unit.

5. 991 Area

- 5.1 During remediation of the Industrial Area both the City of Westminster and the City and County of Broomfield voiced their concern about the specifications pertaining to compaction at the site. Since regarding the 991 area there is severe subsidence and cracking in the area. (Attachment 4) We were lead to believe this instability in the area was due to lubrication from an outfall of a French drain. SW056 was in this area to measure water quality. At the end of September 2005, the outfall of the drain was removed and the east-west portion of the drain was interrupted. Sentinel well 45605 was installed upgradient (west) of the interruption and downgradient (north) of the remaining portion of the drain. There still continues to be a problem in this area. The outfall eliminated the flow into FC-4, but the cracks continued to increase in depth and width. We are very concerned the floor of FC-4 is experiencing extreme uplift. This area has a high potential to have both radioactive and VOC contamination that was not adequately characterized. Based on the risk analysis of the contamination, there was no pathway for the radioactive



contamination. The area has massive cracks and now may have a pathway that was not analyzed in the risk analysis.

- 5.2 We commend DOE for having a geotechnical engineer inspect the areas and suggest actions that could stabilize the slope. We have yet to see a schedule or plan to correct this situation. We are very concerned of mass sediment loading into Southern Walnut Creek. We strongly disagree with DOE and the regulators that this *is not a CERCLA issue* because we do have groundwater monitoring stations in this area and this area flows directly into South Walnut Creek. We have GS-10 directly downgradient of this area and we continue to have elevated concentrations at this station. To state Well 45605 will continue to be monitored in accordance with the IMP for as long as that is feasible, in itself speaks of the need to monitor this area because of residual contamination.
- 5.3 We ask for justification as to why the area is not being stabilized. The reasoning provided by the RFCA Parties is: *to repair it would be fairly significant and stabilization would entail surface grading and backfilling as well as loading the toe of the slope. Both of these activities would cause considerable damage to the newly-graded ground in this area, and could require the establishment of new roads to the bottom of the slope. The regulators came to a consensus to continue to observe condition in this area. When conditions have stabilized, LM will develop a plan to regrade to meet general aesthetic and safety objectives.*
- 5.4 When on the tour in June of 2006 technical staff asked when and how well 45605 would be replaced and the response was the issues would be discussed through the RFCA consultative process. There was no mention of discussing this issue via the Water Working Group. This statement confirms as does the language in the Quarterly Report for June 2006 that the RFCA Parties do not support the spirit of RFCA to include the downstream municipalities with decisions that could impact their communities.

6. Treatment Units/ Remedial Action Objectives

- 6.1 We disagree with the statement in the Proposed Plan and the RI/FS that *Continued operations of these four systems serves to protect surface water quality over short-and-long intermediate-term period by removing contaminant loading to surface water. This protection also serves to meet long-term goals for returning groundwater to its beneficial use of surface water protection.* We agree the systems should serve as a final remedy, but they currently do not function effectively as per design.
- 6.2 Broomfield understands when the treatment units were sited, some sections of the groundwater plumes were downgradient of the units, and therefore, we had sacrificial zones and expected to see degradation of the contaminant as loading was diminished. Data for some of the units are



sporadic and leave us to question if the contamination in the groundwater is from the plume bypassing the unit or from a separate source that has yet to be identified.

- 6.3 Based on GEI's report on the evaluation of the Groundwater IM/IRA, they were concerned there was an adequate evaluation of all the groundwater plumes at the site. GEI was concerned with the statement made by DOE that all the treatment units were functioning per design, yet there were insufficient data sets to verify modeling of the contaminants. The Solar Pond Treatment Unit for years has been a concern to our staff and DOE can not confirm they will be able to meet the nitrate standard of 10mg/L in 2009 when the temporary standard expires. We ask that in your disposition to our comments you provide a plan and assurances that you will be able to meet the 10mg/L standard at the effluent of the Solar Ponds treatment unit and at the discharge point of the Discharge gallery for the Solar Pond Unit.
- 6.4 GEI recommended a more robust sampling program to provide an additional layer to the monitoring program. This additional evaluation of data would also serve to provide additional protection to offsite receptors.
- 6.5 Walnut Creek should not be used as a treatment method to dilute nitrates or uranium and we expect to have the standard met prior to entry into Walnut Creek.
- 6.6 We argue that the objective of the treatment unit at the Solar Pond has been met. We question the length of time DOE took to evaluate the mechanical and operational aspects of the effectiveness of the unit. We thank DOE for taking action to determine the performance issue with the treatment unit. We also applaud DOE for performing a treatability study. Our concern is the study will be performed within the unit. We ask that the RFCA parties perform a bench-scale treatability test prior to using the treatment unit as a scientific experiment. With closure of the Site, the unit is to be a final remedy, not an interim remedy.
 - 6.6.1 We ask to be informed on a weekly basis of the status of the unit based in the impact of the contaminants to Walnut Creek.
 - 6.6.2 We are concerned that the new proposed media may not work and there will be a need to expend additional resources to remove the overburden and remove the experimental media. This action would result in the generation of additional waste and additional risk to the workers.
 - 6.6.3 When the treatability study has been completed, we request a copy of the results for our review and evaluation.
 - 6.6.4 DOE has argued that the nitrate results in the discharge gallery are higher than the effluent from the treatment unit because sections of the groundwater plume were downgradient from the sited treatment unit. After more than 6 years we have not seen a significant decrease in nitrates in the discharge gallery.



6.6.5 Revise the document to state once all the treatment units are meeting their remediation action objectives, DOE will propose to de-list the site.

6.7 *Remedial Action Objectives-*

- 6.7.1 Remedial action objectives are clearly developed to provide the foundation of clean-up actions at a site for all impacted media such as groundwater, surface water, soil, and environmental protection. It is clearly understood if the objectives are not met there are specific mechanisms such as institutional controls to ensure protection of human health and the environment. Of the seven remedial action objectives that were evaluated for the feasibility study, not one objective is completely met. Mechanisms have to be put in place to prevent use, prevent exposure, or statements are made such as: *At this time, no other additional actions can reasonably be taken* are used as reasoning as to why the RAOs were not met. The RAO for exposures that results in an unacceptable risk to the Wildlife refuge worker is identified in Soil RAO Objective 3 for the WBEU. The contaminant of concern is plutonium-239/240 in soils. We understand the risk is still within the acceptable range of 2×10^{-6} . We are concerned there are no controls in place to prevent digging within this area. Controls need to be in place for the life of the contaminant as long as it poses a risk. Impacts to Woman Creek also have to be considered as soils enter the creek.
- 6.7.2 We are not asking for additional removal, but we do believe there should be a control to prevent digging in this area. Erosion controls measures also have to be implemented and adhered to protect surface water quality.
- 6.7.3 Alternative 2 and Alternative 3 add the implementation of institutional and physical control. The 7 controls are identified, yet the Proposed Plan states the controls will be embodied in a post-RFCA enforceable document and an environmental covenant. What is missing are the details of how the controls will be implemented, what will be enforced, who will enforce the controls, public input into the development of the controls, and how corrective actions will be mandated. We have concerns as the document states: *plans will be developed once evidence that violates the restrictions or damage of the controls are found*. There may not be time to draft a plan or have it reviewed. We are being asked to review a document and evaluate the proposal yet significant details are excluded from the document.
- 6.7.4 Revise the Plan to state an annual report to the regulatory agencies and communities will include language pertaining to the failure of controls. Notification of any failure of controls should be made to the regulatory agencies and impacted communities as soon as DOE becomes aware of the failure. Any corrective action should also be reported to the regulatory agencies and the impacted communities and identified in quarterly and annual reports.



- 6.7.5 If the details of the controls are to be addressed in the post-RFCA document we ask for a 60 day comment period for time to evaluate the details of the long-term stewardship plan and controls.

7. Administrative Record and Rocky Flats Reading Room

7.1 Administrative-

- 7.1.1 The City and County of Broomfield and Westminster continue to have problems accessing information on the electronic administrative record. We are very concerned the site will be de-listed and we will not have access to vital information. This information per CERCLA, section 113 requires that an administrative record be established "at or near the facility at issue." *The record is to be compiled contemporaneously and must be available to the public and include all information considered or relied on in selecting the remedy, including public comments on the proposed plan.* We understand new guidance calls for an electronic version of the administrative record. If the record is not accessible, it is not available. Provide a schedule of when DOE anticipates the record will be available and functioning electronically. We also ask for assurances to have public input as to what document should be in the record.
- 7.1.2 Most of the maps in the electronic version of the administrative record are in black and white. The maps and associated legends do not add any value to the record. Based on a \$7 billion dollar clean-up, it would have behooved DOE to enter the information into the system so that the community could access information that is of value and can be understood and evaluated.
- 7.1.3 The City and County of Broomfield and the City Westminster continually voice concerns about the availability of the record. We do not understand why the regulators do not enforce the regulation to meet the needs of the community.
- 7.1.4 We were disappointed to have a regulatory representative state *the record has to be available electronically, but the regulation does not state it has to be operable.* This statement is in direct contrast to the requirement of the law.

7.2 Rocky Flats Reading Room-

- 7.2.1 The Rocky Flats Reading Room located at the College Hill Library, has served as a valuable tool to the community. We have been able to retrieve documents at the reading room that were not even available at the site.
- 7.2.2 We ask the reading room be maintained until we have assurances the electron version of the administrative record is fully functioning.
- 7.2.3 Legacy Management has committed to work with us when it is decided to disposition the documents in the reading room. To date, we have not been involved with any decisions pertaining to the reading room.
- 7.2.4 We understand the reading room was to be maintained until the end of the fiscal year. We now have heard unofficially the room will be maintained until next spring. Clarify the status of the reading room. We



ask that the community be part of the decision process associated with the reading room and its records.

8. De-listing the Site, Land Transfer, and Natural Resource Damage Evaluation

8.1 De-listing the Site-

- 8.1.1 Clarify the delisting process. How with the de-listing process differ from the certification process? We have asked for the criteria for certification, but still have not received the information.
- 8.1.2 How will the Covenant's Bill be enforced if the state has no jurisdiction in the refuge outer perimeter associated with the monitoring system?
- 8.1.3 The site should clearly have a time frame identified to determine when cleanup levels will be achieved for groundwater. It is assumed if the cleanup of the soils was adequate for radionuclides, we will have near term data will verify if the soil remediation was adequate.
- 8.1.4 Prior to delisting the site, we expect to see an identification of deficiencies and any corrective measures regarding work products if there were any identified. We specifically ask for a description of the deficiency for the Solar Pond Treatment Unit, the 991 area, and the cover at the Original Landfill. We ask the RFCA Parties prepare a plan as to how these issues will be resolved and a schedule of when actions will be taken to mitigate the issues prior to approval of the CAD/ROD.

8.2 Land Transfer-

- 8.2.1 The document lacks the details of how the land transfer from DOE to the Service will occur.
- 8.2.2 The remedial action objectives were met if institutional controls were in place. They are several monitoring systems outside of the DOE lands that are within the Service boundary that will not comply with Applicable or relevant and appropriate requirement (ARARs).
- 8.2.3 Community acceptance criterion should be addressed in the CAD/ROD. Without having the opportunity to evaluate the language in the final CAD/ROD, we are interested in the evaluation process the RFCA parties will utilize when reviewing community acceptance based on comments received in writing and at the public meeting held on August 31st.
- 8.2.4 We ask for a closeout meeting to discuss how the site will be maintained. We also want to discuss how the fences and warning signs will be properly installed and maintained.

8.3 Natural Resource Damage Evaluation-

- 8.3.1 We understand funding has been made available to purchase mineral rights. The plan is lacking the evaluation process to



determine the dollar amount assigned to the natural resource damages.

8.3.2 Provide the City and County of Broomfield and the City of Westminster with a copy of the evaluation of the damages.

8.3.3 We also question the ability of the bill to waive future liabilities for DOE in the event there are further damages.

9. Public Involvement Plan

9.1 The City and County of Broomfield and the City of Westminster were the only public members that took the time to comment on the Rocky Flats Site Post-Closure Public Involvement Plan, dated October 2006. We were very disappointed to see our comments were not given any weight, nor were they even dispositioned to allow for a fruitful discussion.

9.2 We once again ask the document be revised to incorporate the needs of the downstream municipalities.

9.3 The Public Involvement Plan should be evaluated on an annual basis with the input from local governments. Based on a recent court decision in the *Moses Lake case*, the court recognized that it would need to dispute what the phrase "*participate in the planning and selection of the remedial action*" found in CERCLA truly means. We understand the decision recognizes the local government statutory right to participate in the cleanup decision-making process beyond the current public participation process currently implemented by DOE. Long-term stewardship is a key aspect of the cleanup process and we expect DOE to extend the policy to our governments, especially impacted governments. We are asking to be involved and kept apprised of the long-term stewardship controls applicable to the site.

9.4 Please refer to our several letters regarding long-term stewardship and our role as downstream communities.

9.5 We anticipate the post-closure document will be released for review these upcoming months for our evaluation and input.

10. Post-Rocky Flats Clean-up Agreement and 5-year Review

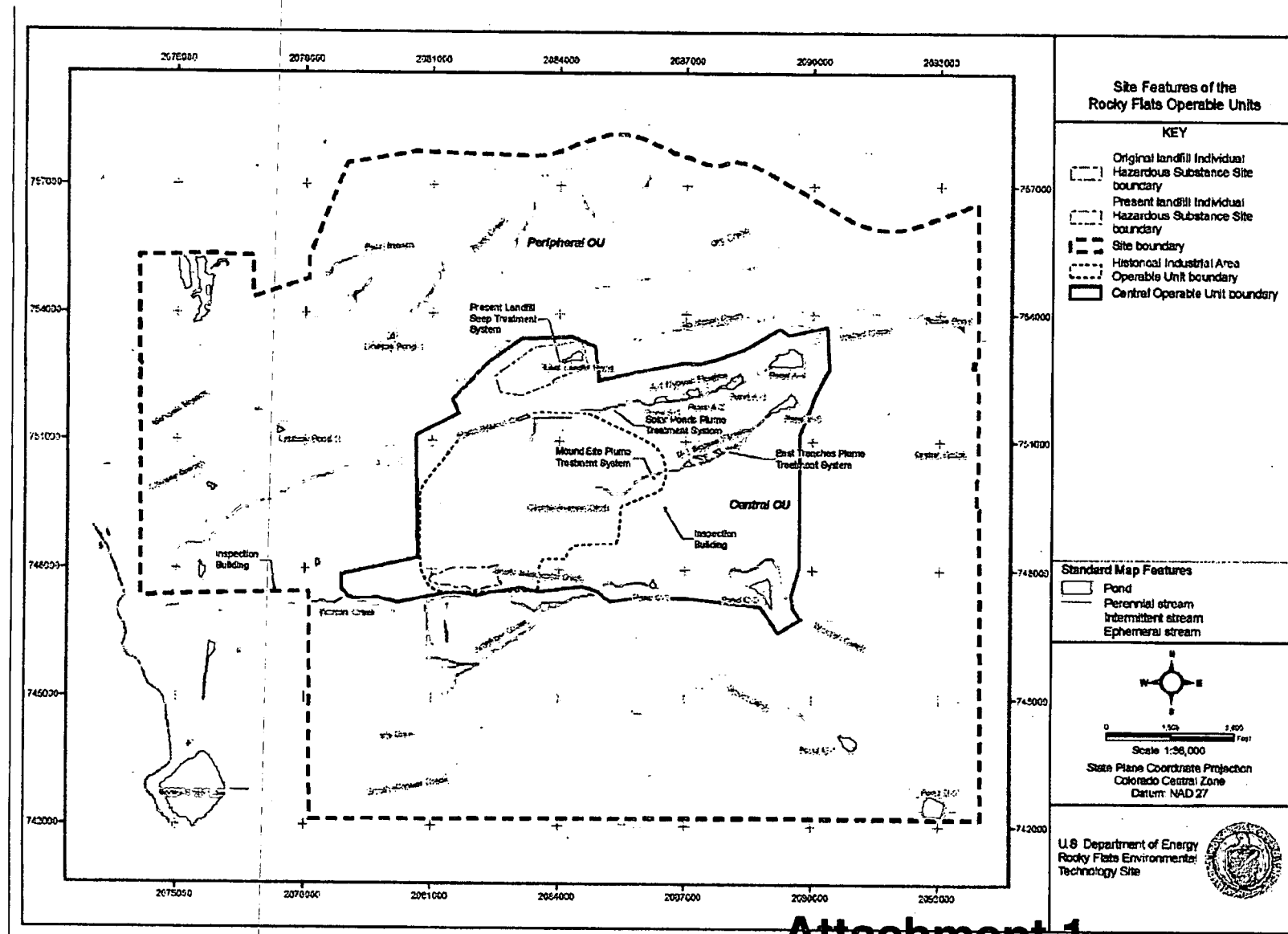
10.1 We ask to be kept apprised of the drafting of the post-RFCA.

10.2 We ask the language pertaining to downstream communities and their role with water management be included in the post-closure document.

10.3 The post-RFCA should as a minimum include the details of the enforceability of the surface water standards, a continuation of the Water Working Group, Attachment 1 list of analytes, ICs, notifications, public participation plan, and other key factors related to long-term stewardship.



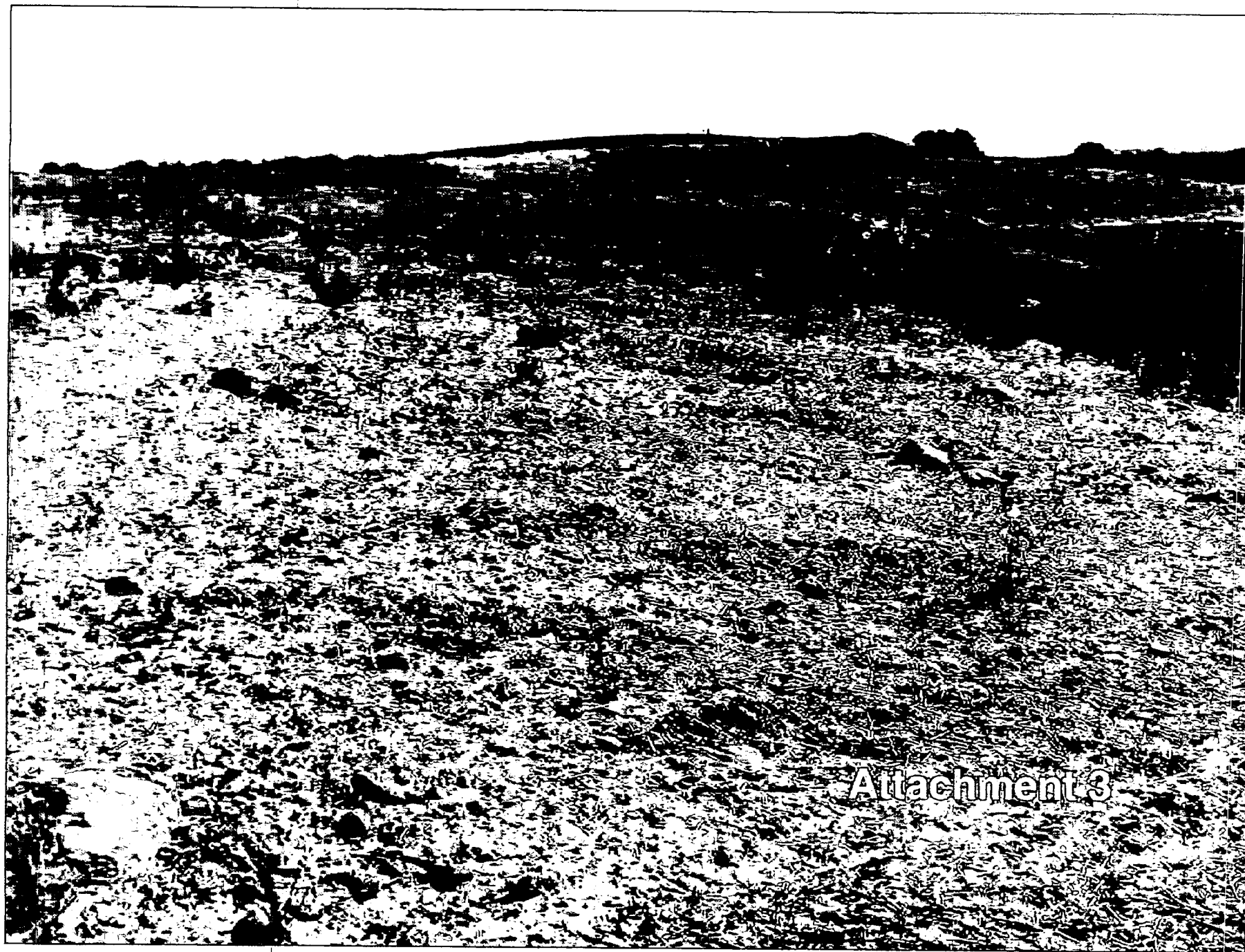
- 10.4 We ask to be kept apprised of the upcoming 5-year review. We ask to have sufficient time to review and evaluate the information related to the review.
- 10.5 We ask to accompany the team during the physical tour of the remedy for the 5-year review.



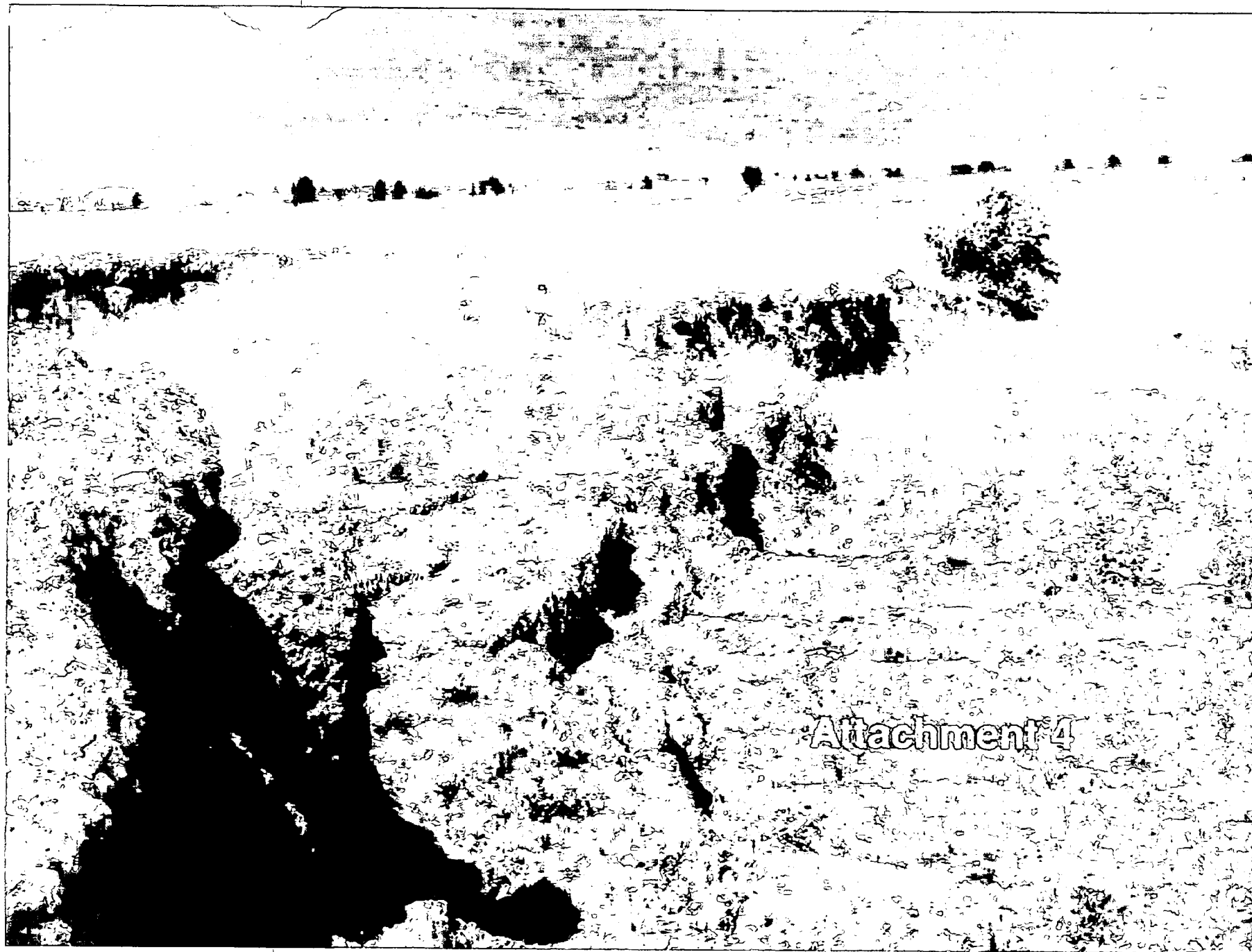
Attachment 1



Attachment 2



Attachment 3



Attachment 4



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WESTMINSTER

City of Westminster
Department of
Public Works
and Utilities

4800 West 92nd Avenue
Westminster, Colorado
80031

U.S. Department of Energy
Attention: Proposed Plan Comments
Rocky Flats Environmental Tech Site
12101 Airport Way, Unit A
Broomfield, CO 80021-2583

ADMIN RECORD